

04/25/01



jc860 U.S. PRO

Patent Application
Attorney's Docket No. 016800-438

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**REQUEST FOR FILING CONTINUATION/DIVISIONAL
APPLICATION UNDER 37 C.F.R. § 1.53(b)**

11017 U.S. PRO
09/841078



04/25/01

Box PATENT APPLICATION

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This is a request for filing a ☐ continuation ☒ divisional application under 37 C.F.R. § 1.53(b) of pending Application No. 09/391,394 filed on September 8, 1999, for COSMETIC, PHARMACEUTICAL OR DERMATOLOGICAL COMPOSITION COMPRISING A HISTAMINE ANTAGONIST, AN INTERLEUKIN-1 ANTAGONIST AND/OR A TNF-ALPHA ANTAGONIST, by the following named inventor(s):

- (a) Full Name Olivier DE LACHARRIERE
- (b) Full Name Lionel BRETON
- (c) Full Name Catherine COHEN

- ☐ Applicant(s) hereby requests that the above-captioned application **NOT BE PUBLISHED** under 35 U.S.C. § 122(b) and 37 C.F.R. § 1.211. The undersigned hereby certifies that the invention disclosed in this application has not and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing.
- ☐ The entire disclosure of the prior application from which a copy of the oath or declaration is supplied herewith is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.
- ☐ This application is being filed by less than all the inventors named in the prior application. In accordance with 37 C.F.R. 1.63(d)(2), the Commissioner is requested to delete the name(s) of the following person or persons who are not inventors of the invention being claimed in this application.

- (a) Full Name _____
- (b) Full Name _____
- (c) Full Name _____

- ☐ This application is being filed by more than all the inventors named in the prior application. In accordance with 37 C.F.R. 1.63(d)(2), the Commissioner is requested to add the name(s) of the following person or persons who are inventors of the invention being claimed in this application.

- (a) Full Name _____
- (b) Full Name _____
- (c) Full Name _____

- ☐ Applicant(s) suggests Figure _ for inclusion on the front page of the patent application publication and/or patent.
1. ☐ Enclosed is a copy of the prior Application No. _ as originally filed on __, including copies of the specification, claims, drawings and the executed oath or declaration as filed.
2. ☒ Enclosed is a revised prior application and a copy of the prior executed oath or declaration as filed in prior Appln. No. 08/580,291. No new matter has been added to the revised application.
3. ☐ Small entity status is hereby claimed.
4. ☒ The filing fee is calculated below ☐ and in accordance with the enclosed preliminary amendment:

CLAIMS					
	NO. OF CLAIMS		EXTRA CLAIMS	RATE	FEE
Basic Application Fee					\$710.00 (101)
Total Claims	18	MINUS 20 =	0	× \$18.00 (103) =	0.00
Independent Claims	2	MINUS 3 =	0	× \$80.00 (102) =	0.00
If multiple dependent claims are presented, add \$270.00 (104)					0.00
Total Application Fee					710
If small entity status is claimed, subtract 50% of Total Application Fee					0.00
Add Assignment Recording Fee of \$ _if Assignment document is enclosed					0
TOTAL APPLICATION FEE DUE					\$710.00

5. ☐ Charge \$ _____ to Deposit Account No. 02-4800 for the fee due.
6. ☒ A check in the amount of \$ 710.00 is enclosed for the fee due.
7. ☒ The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.
8. ☐ Cancel in this application original claims _ of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)
9. ☐ New drawings are enclosed.

10. ☒ Priority of Application No. 94-15796 filed on December 28, 1994 in France (country) is claimed under 35 U.S.C. § 119.

☒ The certified copy of the priority application

☐ is enclosed.

☒ was filed on April 10, 1996 in prior Application No. 08/580,291, filed on December 28, 1995, and acknowledged by the Examiner on January 26, 2001 in Paper No. 10 in prior Appln. No. 09/391,394.

☐ has not yet been filed.

11. ☐ Please amend the specification by inserting before the first line the sentence:

☐ --This application is a ☐ continuation ☐ divisional of Application No. __, filed on __.--.

☐ --This application is a ☐ continuation ☐ divisional of U.S. Application No. __, filed on __, which was a national stage filing under 35 U.S.C. § 371 of International Application No. __ filed on __, which International Application ☐ was ☐ was not published by the International Bureau in English on __.--.

☐ --This application is a ☐ continuation ☐ divisional of U.S. Application No. __, filed on __, which was a continuation of International Application No. __, filed on __, which International Application ☐ was ☐ was not published by the International Bureau in English on __.--.

12. ☐ A preliminary amendment is enclosed.

13. ☒ An Information Disclosure Statement, Form PTO-1449 (2 Sheets), IDS Transmittal Letter, and copies of 5 patents and 1 literature reference are enclosed.

14. ☐ A General Authorization for Payment of Fees and Petitions for Extensions of Time is enclosed.

15. ☒ Also enclosed is a Letter Accompanying Filing of Divisional Application Under 37 C.F.R. §1.53(b).

16. ☒ The power of attorney in the prior application is to Norman H. Stepno, Registration No. 22,716, and all partners of BURNS, DOANE, SWECKER & MATHIS, L.L.P..

a. ☒ The power appears in the original papers in the prior application.

b. ☐ Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.

c. ☐ Recognize as Associate Attorney __.

- d. ☒ Address all future communications to: (May only be completed by applicant, or attorney or agent of record.)

Norman H. Stepno
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, Virginia 22313-1404

Date: April 25, 2001

By: Mary Katherine Baumeister
Mary Katherine Baumeister
Registration No. 26,254

ADDRESS OF SIGNATOR:

BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620

☐ inventor(s)
☐ assignee of complete interest
☐ attorney or agent of record
☒ filed under 37 C.F.R. § 1.34(a)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)
)
Olivier DE LACHARRIERE et al)
)
Application No.:) Group Art Unit:
)
Filed: April 20, 2001) Examiner:
)
For: COSMETIC, PHARMACEUTICAL)
OR DERMATOLOGICAL)
COMPOSITION COMPRISING A)
HISTAMINE ANTAGONIST, AN)
INTERLEUKIN-1 ANTAGONIST) 37 C.F.R. §1.53(b) Divisional of
AND/OR A TNF-ALPHA) Application No. 09/391,394,
ANTAGONIST) filed September 8, 1999, now allowed
)
)

LETTER ACCOMPANYING FILING OF DIVISIONAL APPLICATION
UNDER 37 C.F.R. §1.53(b)

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

The present divisional application is being filed with a revised specification and claims. No new matter has been added.

The specification has been revised to fully cross-reference the predecessor applications.

The claims are drawn to the composition of the invention and overlap with those of great-grandparent Application No. 08/580,291, filed December 28, 1995, now U.S. Patent No. 5,658,581. Applicants intend to file a terminal disclaimer during prosecution to obviate a provisional obviousness-type double patenting rejection based on the '581 patent.

In view of the foregoing, prompt examination on the merits of all of Claims
is believed to be in order and is earnestly solicited.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By: Mary Katherine Baumeister
Mary Katherine Baumeister
Registration No. 26,254

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620

Date: April 25, 2001

016800-438